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In re Application of	:	
GENEREUX et al.	:	
Serial No.: 10/587,263	:	DECISION ON
PCT No.: PCT/CA05/00085	:	
Int. Filing Date: 26 January 2005	:	PETITION UNDER
Priority Date: 26 January 2004	:	
Attorney's Docket No.: 85128-1302	:	37 CFR 1.137(b)
For: TREATMENT OF DENGUE	:	
HEMORRHAGIC FEVER	:	

This is a decision on applicant's "Petition for Revival of A Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 03 September 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 January 2005, applicant filed international application PCT/CA05/00085, claiming a priority date of 26 January 2004. The thirty month period expired on 26 July 2006.

On 26 July 2006, applicant filed a transmittal letter (Form PTO-1390) requesting entry into the U.S. national stage under 35 U.S.C. 371, along with the basic national fee.

On 05 April 2007, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and identifying the international application number and filing date was required, along with the surcharge for filing the oath or declaration after the thirty month period. Applicant was given a two (2) month time period within which to respond, with extensions of time under 37 CFR 1.136(a) available. Thereafter, the national stage application went abandoned for failure to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b), within the time period set forth in the Notification of Missing Requirements. A Notification of Abandonment was mailed on 03 July

2008.

On 03 September 2008, applicant filed a petition to revive the unintentionally abandoned application along with 3 declarations.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

With respect to Items (2), the required petition fee of \$1540 has been paid. With regard to (3), applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

However, with regard to Item (1), the proper reply, an oath or declaration in compliance with 37 CFR 1.497(a) and (b), has not been submitted. Applicant is advised that the declarations submitted on 03 September 2008 are unacceptable. The declaration is a four page declaration. The declarations executed by inventors Genereux and Dixit are missing Page 4, and do not identify the third inventor DeCastro. Similarly, the declaration executed by inventor DeCastro does not contain Page 3, which identifies inventors Genereux and Dixit. Thus, these declarations are incomplete. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as an individual declaration rather than combined into one declaration." See MPEP 201.03. The declarations do not meet the requirements of 37 CFR 1.497 (a) and (b) and thus are unacceptable as filed.

Moreover, the declarations executed by inventors Dixit and DeCastro contain alterations. The USPTO does not accept a declaration that has been altered.

Section 602.01 of the MPEP states the following:

The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. *The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.*

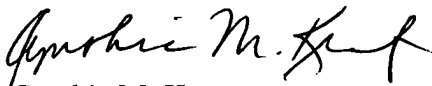
CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 03 September 2008 in the above-captioned application is **DISMISSED without prejudice**.

The application remains abandoned. An oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

The application will be held in PCT Legal Office to await applicant's further reply.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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